

**IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code sections 97B.4 and 97B.15, the Iowa Public Employees' Retirement System (IPERS) hereby amends Chapter 2, "Investment Board," Chapter 4, "Employers," Chapter 6, "Covered Wages," Chapter 7, "Service Credit and Vesting Status," Chapter 8, "Service Purchases," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," and Chapter 15, "Dividends," Iowa Administrative Code.

The amendments implement provisions of 2008 Iowa Acts, Senate File 2424, which requires the amendment or adoption of various sections: removing the 0.4 percent cap on management expenses for investments; adjusting contribution rates for members by IPERS staff based on actuarial valuation; adding new employee classes to IPERS protection occupation class; eliminating bonuses and allowances except for legislative pay; providing service credit at no cost to members of the military who served in a combat zone or hazardous area and received a service-related injury or disease that resulted in the member's death within two years after suffering the injury or disease; expanding choices for buying service time for IPERS members, including new "buy up" service purchase provisions for members who have a mixture of regular and special service credit; clarifying eligibility for disability benefit payments for regular class members; increasing the amount payable to custodians for minors who are beneficiaries to coordinate with other Iowa Code provisions; allowing nonspouse beneficiaries to roll over a deceased member's death benefit to a Roth IRA as an acceptable vehicle for IPERS lump sum distributions; and clarifying that November dividend adjustments will not be made unless statutory contribution rates meet or exceed the actuarially required rate for that fiscal year.

Previously, Iowa Code chapter 97B and administrative rules identified certain types of service as nonqualified service (e.g., employment with a qualified Canadian governmental entity or with the Peace Corps). Effective July 1, 2008, nonqualified service credit is not required to be linked to employment at all and is limited in the aggregate to 20 quarters. Therefore, in Items 18 and 19, references to specific categories of nonqualified service are eliminated.

Additional amendments remove provisions for employer-mandated reductions in hours because the time for that program has expired; remove provisions for patient advocate service purchases because the time for that program has also expired; and remove outdated law citations and update corresponding implementation clauses.

In compliance with Iowa Code section 17A.4(2), IPERS finds that notice and public participation prior to implementation of these amendments are impracticable, unnecessary, and contrary to the public interest and that these amendments should be implemented immediately because these amendments are beneficial to members and necessary to the current and ongoing administration of the system.

IPERS also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments should be waived and these amendments should be made effective upon filing with the Administrative Rules Coordinator on June 25, 2008, because the amendments confer benefits or are necessary to implement the system's governing statutes, or both.

Notice of Intended Action regarding these amendments is published herein as **ARC 6975B** to give interested persons notice of the changes and an opportunity to comment.

These amendments were prepared after consultation with IPERS administration, Benefits Advisory Committee, investment, legal, operations and benefits divisions.

These amendments are not subject to requests for waivers; however, these amendments are subject to the normal IPERS appeal process.

These amendments are intended to implement 2008 Iowa Acts, Senate File 2424, and Iowa Code chapter 97B.

These amendments became effective on June 25, 2008.

The following amendments are adopted.

ITEM 1. Rescind and reserve rule **495—2.2(97B)**.

ITEM 2. Amend subrule 4.6(1) as follows:

**4.6(1) Contribution rates for regular class members.**

*a.* Effective July 1, 2007, except as otherwise provided by law, the following contribution rates shall be effective for all covered members except those identified in subrules 4.6(2) and 4.6(3):

	Ended June 30, 2007	Effective July 1, 2007	Effective July 1, 2008	Effective July 1, 2009	Effective July 1, 2010
Combined rate	9.45%	9.95%	10.45%	10.95%	11.45%
Employer	5.75%	6.05%	6.35%	6.65%	6.95%
Employee	3.70%	3.90%	4.10%	4.30%	4.50%

*b.* Effective July 1, 2011, and every year thereafter, the contribution rates shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective no later than July 1 of the next fiscal year.

ITEM 3. Rescind subrule 4.6(2) and adopt the following **new** subrule in lieu thereof:

**4.6(2) Contribution rates for sheriffs and deputy sheriffs.**

	Effective July 1, 2007	Effective July 1, 2008
Combined rate	15.40%	15.04%
Employer	7.70%	7.52%
Employee	7.70%	7.52%

ITEM 4. Rescind subrule 4.6(3) and adopt the following **new** subrule in lieu thereof:

**4.6(3) Contribution rates for protection occupation.**

	Effective July 1, 2007	Effective July 1, 2008
Combined rate	14.11%	14.08%
Employer	8.47%	8.45%
Employee	5.64%	5.63%

ITEM 5. Amend paragraph **4.6(4)“e”** as follows:

*e.* Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city with a population of 100,000 or more, and employees covered by the Iowa Code ~~Supplement~~ chapter 8A merit system whose primary duties are providing airport security and who carry or are licensed to carry firearms while performing those duties.

ITEM 6. Adopt the following **new** paragraphs **4.6(4)“j”** to **4.6(4)“m”**:

*j.* Effective July 1, 2008, county jailers and detention officers working as jailers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*k.* Effective July 1, 2008, National Guard installation security officers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*l.* Effective July 1, 2008, emergency medical care providers as provided by 2008 Iowa Acts, Senate File 2424, section 31.

*m.* Effective July 1, 2008, special investigators who are employed by county attorneys as provided by 2008 Iowa Acts, Senate File 2424, section 31.

ITEM 7. Amend paragraph **4.6(5)“b”** as follows:

b. Effective July 1, 2006, for a member whose prior regular service position is reclassified by the legislature as a special service position, all prior service by the member in such regular service position shall continue to be coded by IPERS staff as regular service unless the legislature specifically provides in its legislation for payment of the related actuarial costs of such reclassified service as required under Iowa Code section 97B.65 ~~as amended by 2006 Iowa Acts, House File 729, section 10.~~

ITEM 8. Amend subrule 4.6(6) as follows:

**4.6(6)** Effective July 1, 2006, in the determination of a sheriff's or deputy sheriff's eligibility for benefits and the amount of such benefits under Iowa Code section 97B.49C, all protection occupation service credits for that member shall count toward the total years of eligible service as a sheriff or deputy sheriff. However, this subrule shall not be construed to alter the statutory requirement that a sheriff or deputy sheriff must be employed as a sheriff or deputy sheriff at termination of covered employment in order to qualify for benefits under Iowa Code section 97B.49C ~~as amended by 2006 Iowa Acts, House File 2245, section 5.~~

ITEM 9. Rescind subrule **4.6(7)**.

ITEM 10. Renumber subrule **4.6(8)** as **4.6(7)**.

ITEM 11. Rescind and reserve rule **495—4.8(97B)**.

ITEM 12. Amend **495—Chapter 4**, as follows:

These rules are intended to implement Iowa Code sections 97B.4, 97B.9, 97B.14, 97B.14A, 97B.38, 97B.49A to 97B.49I, 97B.65 and 97B.70.

ITEM 13. Amend rule 495—6.2(97B) as follows:

**495—6.2(97B) Definition of wages.** “Wages” means all compensation earned by employees including, except as otherwise provided under this chapter, vacation pay; sick pay; ~~bonus payments~~; back pay; ~~dismissal pay~~; amounts deducted from the employee's pay at the employee's discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents. This definition applies to these rules, regulations, interpretations, forms and other IPERS publications unless the context otherwise requires.

ITEM 14. Amend subrule 6.3(6) as follows:

**6.3(6) Special lump sum payments.** Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include: catastrophic leave paid in a lump sum, ~~recruitment~~ bonuses, tips or honoraria. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

ITEM 15. Rescind and reserve subrule **6.3(11)**.

ITEM 16. Amend rule 495—6.4(97B), as follows:

**495—6.4(97B) Month for which wages are to be reported.** Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, ~~or request wage restorations following EMRH~~, and similar situations involving regular and periodic lump sum payments which IPERS in its sole discretion determines should be treated as covered wages. The employer shall file wage adjustment reporting forms with IPERS allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

ITEM 17. Adopt the following **new** paragraph **7.1(3)“f”**:

*f.* Effective July 1, 2008, free service credit will be given in the calculation of death benefits for members who served military duty and met the following conditions:

- (1) Served in a combat zone or hazardous duty area,
- (2) Sustained a service-related injury or disease that prevented the member from returning to IPERS-covered employment, and
- (3) Died of the service-related injury or disease within two years after suffering the injury or disease.

ITEM 18. Rescind and reserve subrules **8.1(11)** to **8.1(13)**.

ITEM 19. Amend subrule 8.3(3) as follows:

**8.3(3)** IPERS ~~shall not permit~~ permits the purchase of nonqualified ~~permissive~~ service credit, as defined under IRC Section 415(n), ~~unless such service is specifically authorized by the Iowa legislature.~~ “Nonqualified service” means:

- a.* Service that is not qualified service under Iowa Code section 97B.80C; and
- b.* Service for which no services were performed; and
- c.* Service for which the member is entitled to receive retirement benefits under another retirement plan. If so authorized, a member must have five years 20 quarters of existing service to make such a purchase, and the quarters of nonqualified service purchased cannot exceed 20. Nonqualified service credit purchased shall not exceed 20 quarters. This limit is an aggregate limit that applies to all quarters categorized as nonqualified service credit.

ITEM 20. Rescind paragraphs **8.5(3)“b”** and **8.5(3)“e.”**

ITEM 21. Reletter paragraphs **8.5(3)“c,” 8.5(3)“d”** and **8.5(3)“f”** as **8.5(3)“b,” 8.5(3)“c”** and **8.5(3)“d.”**

ITEM 22. Adopt the following **new** subrule 8.5(4):

**8.5(4)** *“Buy up” of service credit through service purchase.* Effective July 1, 2008, IPERS members may be allowed to “buy up” service credit. The term “buy up” means to convert regular service credit to special service credit by payment of the actuarial cost. In calculating the actuarial cost, IPERS shall apply the same actuarial assumptions and cost methods as those in paragraph 8.1(2)“*f*,” except as modified according to the actuary’s recommendations.

*a. Active, retired and inactive members.* A member must have at least one quarter of available or retired special service wages on file and must be vested at the time of the buy-up. A service purchase cost quote must include the following information:

	Active and Inactive Members	Retired Members
Member ID or social security account number	X	X
Date of birth	X	X
Occupation code	Current	At retirement
Wage	Highest year of calendar wage	Average of the highest three calendar years of wages used at retirement
Years of service – regular	X	X
Years of service – sheriffs/deputies	X	X
Years of service – protection occupation	X	X
Number of quarters available to buy up	X	X
Type of conversion – sheriffs/deputies or protection occupation	X	X
Investment (employee’s contributions and interest)	Current	At retirement

*b. Mixture of service time.* If a member's service time contains a mixture of regular, protection and sheriff service credit, IPERS shall prepare buy-up cost quotes as follows:

(1) If the member is currently employed in the sheriff class or retired as a sheriff, the cost quote shall be prepared reflecting a buy-up to sheriff service credit.

(2) If the member is not currently employed in the sheriff class or did not retire as a sheriff, the cost quote shall be prepared reflecting a buy-up to protection occupation service credit.

*c. Wage adjustment after a buy-up.*

(1) If an employer submits wage adjustments on service credit that has been purchased through a buy-up, the member's cost quote will not be affected by a wage adjustment that alters the reported wages on file, so long as reported wages for the buy-up quarters are not reduced below \$1.

(2) If an employer wage adjustment completely removes a member's service credit in a buy-up quarter, IPERS shall correct the service credit, perform the necessary recalculations, and contact the member, if necessary, for any contribution and benefit payment adjustments.

*d. IRS limitations.* Buy-up service purchases will be aggregated with buy-in service purchases during a calendar year and subjected to the applicable limits of Section 415(c) of the Internal Revenue Code. Amounts that are rolled over from other qualified plans for service purchases are excluded from these limits.

ITEM 23. Amend subrule 13.1(1) as follows:

**13.1(1)** ~~The following standards apply to a retirement due to disability under the provisions of Iowa Code section 97B.50(2)~~ For IPERS regular class members retiring because of a disability:

*a.* ~~The member must inform IPERS at retirement~~ indicate on the application for retirement that the retirement is due to an illness, injury or similar condition. The member must also initiate an application for federal social security disability benefits or federal railroad retirement disability benefits.

*b.* ~~To qualify for the IPERS disability provision, the~~ The member must be awarded federal social security benefits due to a disability which existed at the time of retirement the application for retirement was filed.

*c. and d.* No change.

*e.* Continued qualification monitoring. For a member retiring due to a disability on or after January 1, 2009, in order to continue qualification for disability benefits, the member shall provide IPERS with proof of continuing eligibility for federal social security disability benefits or railroad retirement disability benefits by June 30 of each calendar year. IPERS may also require complete copies of the member's state and federal income tax returns, including all supporting schedules, by June 30 of each calendar year. IPERS may suspend the benefits of any such member if these records are not timely provided.

ITEM 24. Adopt the following **new** subrule 13.1(4):

**13.1(4)** If a member whose IPERS disability benefits were suspended because of the member's return to covered employment provides proof acceptable to IPERS that the member remains eligible for federal social security disability benefits or railroad retirement disability benefits, IPERS shall reinstate the member's disability benefits, subject to the member's continued compliance with paragraph 13.1(1)"e."

ITEM 25. Amend rule 495—14.8(97B) as follows:

**495—14.8(97B) Beneficiaries under the age of 18.** Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is ~~\$10,000~~ \$25,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than ~~\$10,000~~ \$25,000.

ITEM 26. Amend rule 495—14.14(97B) as follows:

**495—14.14(97B) Procedures for deaths of certain voluntary emergency services personnel occurring in the line of duty.** Effective July 1, 2006, for a member who dies while performing the functions of a voluntary emergency services provider as described under Iowa Code section 85.61 or 147A.1, benefits for deaths occurring in the line of duty shall be paid pursuant to Iowa Code section

~~100B.11 and not under Iowa Code section 97B.52 as amended by 2006 Iowa Acts, House File 2665, section 2 100B.31.~~

ITEM 27. Amend rule 495—14.15(97B) as follows:

**495—14.15(97B) Rollovers by nonspouse beneficiaries.** Effective January 1, 2007, ~~in addition to the rollovers permitted under Iowa Code section 97B.53B,~~ nonspouse beneficiaries shall be permitted to request a direct rollover of such beneficiaries' death benefit payments to traditional IRA accounts established in accordance with Section 829 of the Pension Protection Act of 2006 and IRS Notice 2007-7. IPERS shall determine the amount eligible for direct rollover under IRC Section 401(a)(9), if any, and the procedural requirements for requesting such rollovers. It shall be the beneficiaries' responsibility to determine that the recipient IRAs meet the structural and operational requirements of Section 829 and Notice 2007-7. IPERS shall bear no responsibility for rollovers to IRA accounts that fail to meet such requirements.

Effective January 1, 2008, IPERS will also allow rollovers under this rule to Roth IRA accounts established in accordance with the structural and operational requirements of Section 829 and Notice 2007-7.

ITEM 28. Renumber subrules **15.1(1)** to **15.1(4)** as **15.1(2)** to **15.1(5)**.

ITEM 29. Adopt the following **new** subrule 15.1(1):

**15.1(1) November dividend adjustment.** Effective July 1, 2008, in order to determine whether the adjustment to dividend payments is payable under Iowa Code section 97B.49F(1) “b” as amended by 2008 Iowa Acts, Senate File 2424, section 34, an IPERS actuary shall compare the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year and certify the results to IPERS. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the applicable percentage used to calculate dividend adjustments shall be zero.

ITEM 30. Amend subrule **15.2(1)**, as follows:

Effective July 1, 2006, IPERS shall in no event credit amounts attributable to favorable experience to the FED reserve account, unless IPERS is fully funded and will remain fully funded after such amounts are credited to the FED reserve account. “Fully funded” means that the funded ratio as determined under ~~2006 Iowa Acts, House File 729, section 1,~~ Iowa Code section 97B.1A(11A) remains at least 100 percent following the allocation of favorable experience to the FED reserve account.

ITEM 31. Amend **495—Chapter 15**, as follows:

These rules are intended to implement Iowa Code sections 97B.1A(11A), 97B.49F and 97B.70.

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